

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	File Nos. 0006729503 <i>et al.</i>
Request of Progeny LMS, LLC for Waiver)	
and Limited Extension of Time)	WT Docket No. 12-202

OPPOSITION TO APPLICATION FOR REVIEW

Progeny LMS, LLC (“Progeny”), by its attorneys, and pursuant to Section 1.115(d) of the Commission’s rules, hereby opposes the Application for Review that was filed by Warren Havens, and Polaris PNT PBC (“Havens”)¹ against the order that was issued by the Mobility Division (“Division”) on January 17 2017 (“Renewal Order”) granting Progeny an extension of its buildout milestones and renewing Progeny’s licenses in the Multilateration Location and Monitoring Service (“M-LMS”).²

Havens’ Application for Review disregards the primary reason why the Division dismissed the Petition to Deny that Havens filed on August 6, 2010 (“Havens’ Renewal PTD”)³ against Progeny’s license renewal applications. The Division concluded that Havens’ Renewal PTD was grossly untimely because the issues addressed in his petition were placed on public

¹ See Warren Havens, and Polaris PNT PBC, Conditionally Submitted Application for Review, and in the Alternative Request Under Section 1.41, WT Docket No. 12-202 (Feb. 16, 2017) (“*Application for Review*”).

² Request of Progeny LMS, LLC for Waiver and Limited Extension of Time, DA 17-20, *Order* (Jan. 17, 2017) (“*Renewal Order*”).

³ See Petition of Warren Havens *et al.* to deny the Applications of Progeny LMS, LLC for renewal of Multilateration Location and Monitoring Services Economic Area Licenses, Public Notice Report No. 6012, File Nos. and Call Signs listed in Report No. 6012, leading with 0004307320 and WPQP865 (Aug. 6, 2010) (“*Renewal PTD*”).

notice by the Commission in December 1999.⁴ Havens, despite being actively involved in M-LMS proceedings during that period, did not oppose the grant of Progeny's M-LMS licenses in 1999, or seek reconsideration of their grant when they were announced by the Commission in July 2000.⁵

Instead, Havens' Application for Review focuses solely on the Division's secondary conclusion that Havens' Renewal PTD was defective because it failed to include any "specific allegations of fact sufficient to make a *prima facie* showing" that the renewal of Progeny's licenses would be inconsistent with the public interest.⁶ Havens' Application for Review appears to acknowledge this substantive defect, claiming that such facts were included in a previous pleading that Havens' filed seeking reconsideration of the Commission's grant of a transfer of control application that Progeny filed with the Commission in 2008.⁷

Havens' reliance on his 2008 pleading is ironic because, as the Renewal Order notes, the Division addressed that pleading in a previous order that the Division adopted on May 31, 2012

⁴ See *Renewal Order*, ¶ 41 (citing Location and Monitoring Service Application Accepted for Filing Auction Event 21, *Public Notice*, DA 99-2712, 15 FCC Rcd 1591 (1999) ("1999 Public Notice")).

⁵ See Wireless Telecommunications Bureau Announces it is Prepared to Grant Location and Monitoring Service Licenses After Final Payment is Made, *Public Notice*, DA 00-989, 15 FCC Rcd 7888 (2000).

⁶ *Renewal Order*, ¶ 41 (citing 47 CFR § 1.939(d)).

⁷ *Application for Review* at 4 (referencing Petition for Reconsideration and in the Alternative, Petition to Deny or Request under Section 1.41, filed by Telesaurus Holdings GB LLC, Intelligent Transportation & Monitoring Wireless LLC, AMTS Consortium LLC, and Telesaurus-VPC LLC, and Warren Havens (filed Jan. 11, 2008; amended Jan. 14, 2008)).

(“2012 Order”).⁸ In its 2012 Order, the Division appropriately concluded that Havens’ 2008 pleading was also grossly untimely, explaining that “Petitioners cannot use this unrelated proceeding to address issues that should have properly been raised eight years before the Application was filed.”⁹

The Division’s 2012 Order also carefully considered and rejected Havens’ argument that his untimely filing was justified. The Division explained that no facts were hidden from the public either by Progeny or the Commission, observing that the December 1999 Public Notice that sought comment on Progeny’s license application “specifically referenced documents from the Indiana litigation and noted that documents relating to the court proceedings were available for public review at the Commission.”¹⁰

The Division repeats these conclusions in its 2017 Renewal Order, once again explaining that “the public was given ample opportunity” to comment on Progeny’s 1999 license applications and yet Havens made no effort to raise his argument until many years later.¹¹ The Division also explained that Havens’ belated arguments “were considered by the Bureau in granting the Licenses” in July 2000.¹²

⁸ See Application for Transfer of Control of Progeny LMS LLC to Progeny LMS Holdings LLC and Notification of the Consummation of the Transfer of Control of Progeny LMS LLC to Progeny LMS Holdings LLC, DA 12-851, *Order*, 27 FCC Rcd 5871, 5878-80, ¶¶ 20-23 (WTB MD 2012) (“2012 Order”).

⁹ *Id.*, ¶ 23.

¹⁰ *Id.*, ¶ 22 (citing 1999 Public Notice).

¹¹ *Renewal Order*, ¶ 41.

¹² See *id.* (citing 2012 Order, ¶ 22).

Therefore, the Division acted appropriately in denying Havens' Renewal PTD. The Commission should now bring finality to this issue by denying both the Application for Review that Havens filed in this current proceeding and by denying the Application for Review that Havens filed in response to the Division's 2012 Order.¹³

Respectfully submitted,

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March 3, 2017

¹³ See Telesaurus Holdings GB LLC, Intelligent Transportation & Monitoring Wireless LLC, Environmental LLC, Verde Systems LLC, and Warren Havens, Application for Review of Bureau's May 31, 2012 Order, DA 12-851 (July 2, 2012).

CERTIFICATE OF SERVICE

I, Bruce A. Olcott, hereby certify that on March 3, 2017, I caused a copy of the foregoing Opposition of Progeny LMS, LLC to be served by U.S. first-class mail, postage paid, upon each of the following:

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A handwritten signature in black ink, appearing to read 'Bruce A. Olcott', written over a horizontal line.

Bruce A. Olcott